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April 7, 2023

VIA ECF

The Honorable Stewart D. Aaron, U.S.M.J.

United States District Court

Southern District of New York

Daniel Patrick Moynihan Courthouse

500 Pearl Street, Room 1970

New York, New York 10007

Re: Alvarez Chicas et al. v. Kelco Construction, Inc. et al.

Civil Action No.: 1:21-cv-09014-PAE-SDA;

Defendants Kelco Construction, Inc.'s, E.L.M. General Construction Corp.'s, Kelco Landscaping, Inc.'s, John Kelly's, and Joseph Provenzano's Response to Plaintiffs' Letter Motion for a Discovery Conference and Letter Motion for Various Forms of Relief.

Dear Judge Aaron:

Pursuant to the Notice of Substitution of Attorney filed on March 27, 2023 (ECF Doc. 114), and so ordered by the Court on March 28, 2023, the undersigned's law offices ("Incoming Counsel") were substituted for the law firm of Littler Mendelson, P.C. ("Predecessor Counsel") as counsel for Defendants Kelco Construction, Inc., E.L.M. General Construction Corp., Kelco Landscaping, Inc., John Kelly, and Joseph Provenzano (collectively, the "Defendants") in connection with the above-referenced action. We write, in accordance with Rules I.A., I.D., and II.B.1. of Your Honor's Individual Practices (the "Individual Practices"), in response to Plaintiffs letter motion for a discovery conference (the "Letter Motion"), and to respectfully request that, in light of our offices' recent retention by Defendants, as well as Incoming Counsel's need to review the voluminous matter file maintained by Predecessor Counsel, and to which they were only granted access after the close of business, yesterday, April 7, 2023, the Court (1) extend, by ninety (90) days, or to and through July 9, 2023, the current April 10, 2023, deadline by which Defendants shall appear, move, or otherwise respond to Plaintiffs' Third Amended Class and Collective Action Complaint (the "TAC") (ECF Doc. 112), (2) stay, to and through

July 9, 2023, any and all pending deadlines in this matter, and, at the minimum, (3) schedule a telephonic conference at which all parties, by and through their respective counsel, shall appear before the Court for purposes of discussing these and all other pertinent matters.

As and for good cause for the relief requested herein, it was just 10 days ago, on March 28, 2023, that the undersigned's law offices were formally substituted as counsel of record for Defendants. *See* ECF Doc. 114. Although we promptly requested, so as to minimize any delay to the timely advancement of this action, that Predecessor Counsel immediately transmit to us their matter file, it was not until yesterday evening that they did so. Moreover, it appears that Predecessor Counsel's matter file contains of over 3,000 categories of documents comprising some 30,000 pages. Although a significant number of these documents has, fortunately, already been produced by Predecessor Counsel, we must nonetheless carefully review same in order to thoroughly evaluate Plaintiffs' claims, and Defendants' defenses, as well as what, if any, avenues for compromise and/or resolution might remain available notwithstanding the action's pendency for over two years. And while our offices are committed to the timely advancement of this action, including, without limitation, the completion of any remaining discovery, we firmly believe that such end is best achieved by affording Incoming Counsel a sufficient amount of time to meaningfully engage with the matter, undertake the necessary diligence, duly confer with their clients, and, if possible, explore the possibility of settlement.

Accordingly, Defendants respectfully request that the Court extend the current April 10, 2023, deadline by which Defendants are to respond to Plaintiffs' TAC, and further direct that any all pending deadlines in this action shall be stayed, to and through July 9, 2023. Should the Court be disinclined to grant such relief summarily, and in the absence of a colloquy with counsel, we would respectfully request that Your Honor schedule a telephonic conference at which the parties' counsel shall appear for purposes to discussing these and all other pertinent matters. While the undersigned does not object to, or otherwise oppose, Plaintiffs' suggestion, in their Letter Motion, that the remaining discovery in this matter must be timely completed, he would nonetheless respectfully submit that such an appearance is unwarranted, given Incoming Counsel's commitment to promptly furnishing any outstanding written discovery responses, together with any and all non-privileged, non-objectionable documents not yet produced, as soon as they have had a chance to review and digest Predecessor Counsel's matter file. Further, the undersigned would respectfully note that, prior to his filing of the Letter Motion, no request to meet and confer, in accordance with Rule II.A. of Your Honor's Individual Practices, was received from Plaintiffs' counsel.

The undersigned hereby affirms, in accordance with Rule I.D. of Your Honor's Individual Practices, that, prior to his filing of the instant letter response and motion, he duly conferred with Plaintiffs' counsel with respect to the herein requests, who joins in our conference scheduling request, and advised that, although he does not necessarily oppose Defendants' request for a stay, he does not affirmatively consent to such relief. As for Defendants' tandem request that their April 10, 2023, responsive pleading deadline be

extended to and through July 9, 2023, the undersigned's request for Plaintiffs' consent thereto went without response.

Finally, no prior application for the relief requested herein has been made by Defendants.

On behalf of Defendants, the undersigned thanks the Court for its time and consideration with respect to these matters and the relief requested herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. Waran', with a stylized flourish at the end.

Previn A. Waran, Esq.

cc: All counsel for record (*via ECF*).